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10/696,069

10/28/2003

Michael Popovsky

HT03

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EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

12/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/696,069 | Applicant(s) POPOVSKY ET AL. | |
| | Examiner Randall Chin | Art Unit 3723 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-14 and 59-66 is/are pending in the application.
- 4a) Of the above claim(s) 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14, 59-62 and 64-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05162008;09122008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. Applicant is respectfully requested to submit in the next correspondence a copy of the "Supplementary European Search Report" as mentioned in the Remarks section of the IDS filed 12 September 2008. A copy of it was not provided to the Office.

Claim Objections

2. Claims 10, 14 and 66 are objected to because of the following informalities:

Claim 10, please correct "deansing" (both occurrences) to --cleansing--.

Claim 10, line 2, there appears to be a period after "6" causing confusion.

Claim 14 appears to be redundant of that already recited back in claim 1, lines 10-11.

Claim 66, it appears that the end of line 9 has been cut off.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 60, 64 and 66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 60, the recitation that the solid cleansing agent pourable soap is “comprised of alkali salts of mixed fatty acids” is not supported by the original specification and therefore constitutes new matter.

Claim 64, the recitation that the one or more fragrances are present “at a concentration of from about 0.5% to about 5% by weight of the solid cleansing agent pourable soap” is not supported by the original specification and therefore constitutes new matter.

Claim 66, line 1, the recitation that the personal care pad is for cleansing the “skin and hair of a mammal” is not supported by the original specification and therefore constitutes new matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-5, 7, 9, 12-14, 59, 61, 62, 65 and 66 are rejected under 35

U.S.C. 102(b) as being anticipated by McManus 6,187,728 (hereinafter McManus).

As for claim 1, the patent to McManus discloses a cleansing pad in Fig. 2b, for example, comprising a web of fibers 4 (col. 3, lines 15-18, col. 5, lines 9-12, col. 7, lines 44-50) forming a pad, and a solid cleansing agent pourable soap 5 “distributed substantially throughout said pad” (deemed a rather broad phrase here) in a quantity sufficient for multiple uses of the pad in conjunction with a solvent (water) that dissolves the solid cleansing agent pourable soap for cleansing purposes, and wherein the solid cleansing agent pourable soap contains glycerine (col. 3, lines 15-18). As for claim 1, lines 8-13, reciting that the solid cleansing agent pourable soap is in essentially solid form at a first temperature range of less than about 120°F, becomes a pourable liquid when heated to a second temperature range of from about 120°F to about 160°F, and resolidifies into essentially solid form when cooled after step (iii) to the first temperature range of less than about 120°F, such melting/cooling temperature values/ranges are clearly met by McManus as shown by Example 1 (col. 12, lines 40-45). In an alternative light in rejecting claim 1, it will be added that claim 1 is an **apparatus** claim and not a method claim and that with use (or even with several uses) of McManus’ cleansing pad, the solid cleansing agent pourable soap would *eventually* be “distributed substantially throughout said pad” (i.e., after use or some uses, and after drying and resolidifying; col. 12, lines 1-7).

As for claim 3, the pad comprises synthetic materials (col. 6, lines 65-66).

As for claim 4, the pad comprises naturally occurring materials (col. 7, lines 3-4).

As for claim 5, the pad is porous (col. 7, lines 8-10).

As for claim 7, the pad comprises a sponge (col. 6, line 1 to col. 7, line 12).

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As for claim 9, the pad is deemed to be non-woven material.

As for claim 12, the solid cleansing agent pourable soap distributed substantially throughout the pad is comprised of one or more fragrances (col. 10, line 23 to col. 11, line 67).

As for claim 13, there can be colorants (col. 10, lines 16-22).

As for claim 59, the solid cleansing agent pourable soap consists essentially of natural soap (col. 5, lines 15-34).

As for claims 61 and 62, the natural solid cleansing agent pourable soap is deemed essentially free or free of synthetic detergents.

As for claim 65, the cleansing pad of McManus is deemed sufficient for at least 20 baths or showers (col. 12, lines 5-7) since there is no definitive time standard as to what actually constitutes a "use".

Claim 66 is rejected similarly as above for claim 1. It will be added that McManus' cleansing pad is a "personal care pad" (col. 1, lines 7-10).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6, 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus.

As for claim 6 reciting that the pad comprises a non-porous substrate, it would have been obvious to one of ordinary skill in the art to have provided for such a non-porous substrate if one desired to limit or eliminate any absorption of liquids into the pad itself and such would also depend on the particular cleansing task at hand.

As for claim 8, whether the pad is woven or non-woven is well within the level of ordinary skill in the cleansing pad art and is conventionally known. They are deemed mere mechanical equivalents of one another for their excellent cleaning characteristics and the choice of either would depend on the particular cleansing task at hand.

As for claims 10 and 11, the claimed weight ratios are deemed within the level of ordinary skill and merely depends on desired final design and aesthetic considerations.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Akrongold and Richter are pertinent to impregnated sponge arrangements.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723